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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/841,402	04/23/2001	Robert D. Kluser	7201 US	6386

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EXAMINER

WILKENS, JANET MARIE

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 02/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/841,402

Applicant(s)

KLUSER ET AL.

Examiner

Janet M. Wilkens

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date Z.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**5,138,525**



FIG. 2

***Please note that Mr. Anderson is no longer examining this application; the case has been taken over by the undersigned and therefore, all inquiries should be directed thereto.***

### ***Claim Objections***

A series of singular dependent claims is permissible in which a dependent claim refers to a preceding claim which, in turn, refers to another preceding claim.

A claim which depends from a dependent claim should not be separated by any claim which does not also depend from said dependent claim. It should be kept in mind that a dependent claim may refer to any preceding independent claim. In general, applicant's sequence will not be changed. See MPEP § 608.01(n).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Rodriguez. Rodriguez teaches a rack-mounting system (Fig. 2) comprising: a frame forming a central compartment (entire inside of housing 20) and including a central rib (15), a sleeve (a; see Attachment A) adapted to received an instrument and fit into the

compartment (conceivably anywhere inside the frame) and means for detachably securing the sleeve within the frame (b,c; see attachment A).

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Noda et al. Noda teaches a rack-mounting system (Fig. 2) comprising: a frame (24) forming a central compartment (entire inside of housing 24), a sleeve (22) adapted to received an instrument (Note: the instrument is not being positively claimed and even if it were, member 106 can be considered an instrument in a broad sense) and fit into the compartment and means for detachably securing the sleeve within the frame (see Fig. 8). The securing means comprising a spring (88) mounted on the frame and a button (94) mounted on the spring and extending through holes in the frame and sleeve.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez in view of Noda et al and Ryan et al. As stated above, Rodriguez teaches the limitations of claims 1 and 4, including a sleeve detachably secured in a frame. For claims 2, 5 and 6, Rodriguez fails to teach that the securing means is specifically a spring and button member. Noda teaches a rack-mounting system (Fig. 2) comprising: a frame (24), a sleeve (22) fit into the compartment and means for

detachably securing the sleeve within the frame (see Fig. 8). The securing means comprising a spring (88) mounted on the frame and a button (94) mounted on the spring and extending through holes in the frame and sleeve. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Rodriguez by using an alternate type of securing means between its sleeve and frame, i.e. using the spring and button means of Noda therein instead of the generic means presently disclosed, since these means are functional equivalents and it appears that either type of means would work equally well between the sleeve and frame of Rodriguez. Furthermore, assuming that the base of the frame of Rodriguez is flush with a support surface, a "fake bottom" such as is taught by Ryan et al at 16 could be employed to allow the spring to flex.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez in view of Russo. As stated above, Rodriguez teaches the limitations of claim 1, including a sleeve detachably secured in a frame. For claim 3, Rodriguez fails to teach that the sleeve is made of two members, having mating fingers. Russo teaches members (14) attached together via mating fingers. First, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Rodriguez by making the sleeve plural pieces, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179. Furthermore, it would have been obvious to connect the pieces using mating fingers, such as is taught by Russo, since

this type of attachment is well known and would work well connecting the halves together.

### ***Allowable Subject Matter***

Claims 7 and 6/7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

Applicant's arguments filed September 25, 2003 have been fully considered but they are not persuasive. The applicant argues that Noda element 22 is not a "sleeve" but is an instrument and that the Noda disk drive compartment is equivalent to the applicant's sleeve. The examiner disagrees. Noda discloses the disk drive assembly 22 as having a boxlike enclosure 34. It is the enclosure that is equivalent to the applicant's sleeve. It is also argued that there is a button on the spring that is depressed from inside the sleeve for removal which is not shown by Noda. The examiner considers the pawl 94 of Noda equivalent to the button as claimed. Furthermore, the claims do not address "depressing the button from the interior of the sleeve". It is further argued that Noda fails to teach a frame having two portions interlocked via fingers. As stated above in the art rejection, to make integral parts separable is an obvious matter of design choice for one having an ordinary skill in the

art and to use interlocking fingers to achieve this is also well known, as shown by Russo.

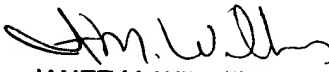
Applicant's arguments not addressed have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (703) 308-2204. The examiner can normally be reached on Monday-Thursday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wilkens  
February 20, 2004

  
JANET M. WILKENS  
PRIMARY EXAMINER  
Art Unit 3637